

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
UNITED STATES OF AMERICA, :  
: 21CR00037-1 (DLC)  
-v- : 22CV09979 (DLC)  
:  
CAREEM JOSEPH, :  
: ORDER  
: Defendant.  
:  
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DENISE COTE, District Judge:

On November 18, 2021, Joseph was sentenced principally to a 78-month term of imprisonment. Joseph appealed his conviction.

On November 22, 2022, Joseph filed a motion under 28 U.S.C. § 2255 requesting modification of his sentence. An Order of December 9 denied Joseph's November 22 § 2255 motion without prejudice to renewal after his appeal had been adjudicated.

On June 16, 2023, the Court of Appeals remanded the case to this Court for the limited purpose of either striking the mental health special condition from the judgment or reconsidering and, if appropriate, reimposing the condition during a hearing with Joseph present. On June 30, Joseph filed a motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c) (2).

On August 1, 2023, Joseph was resentenced. The mental health special condition at issue on appeal was struck, and an amended judgment was issued.

In a submission filed on September 12, 2023, Joseph requests to "withdraw" both his § 2255 petition filed on November 22, 2022, and his § 3582 motion filed on June 30, 2023. Joseph also requests that counsel be appointed to represent him to file a new § 3582 motion.

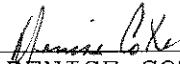
"[T]here is no constitutional (or statutory) right to appointed counsel in § 3582(c) proceedings." United States v. Fleming, 5 F.4th 189, 193 (2d Cir. 2021) (citation omitted). The provision of counsel for such motions rests in the discretion of the district court. See United States v. Reddick, 53 F.3d 462, 465 (2d Cir. 1995). Accordingly, it is hereby ORDERED that Joseph's motion to appoint counsel is denied.

IT IS FURTHER ORDERED that Joseph's request to withdraw his § 3582 motion of June 30, 2023 is granted.

IT IS FURTHER ORDERED that Joseph's request to withdraw his § 2255 motion is denied as moot. This motion was denied without prejudice to renewal in the Court's Order of December 9, 2022.

IT IS FURTHER ORDERED that the Clerk of Court shall mail Joseph a copy of this Order and note mailing on the docket.

Dated: New York, New York  
December 14, 2023

  
DENISE COTE  
United States District Judge